

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
vs.) Plaintiff,)) CIV 10-084-FHS
1)CHARLES O. DUCKETT, a.k.a. Charles)
Duckett, a.k.a. Charles Otis Duckett;)
2)EVELYN D. DUCKETT, a.k.a. Evelyn Deloris)
Duckett, a.k.a. Evelyn Duckett, deceased, the)
unknown heirs, executors, devisees, trustees and)
assigns of Evelyn Deloris Duckett, deceased;)
3)MARCUS DUCKETT;)
4)KATIE DUCKETT;)
5)CAPITAL ONE BANK;)
6)FORD MOTOR CREDIT CORPORATION;)
7)ERIN CAPITAL MANAGEMENT, LLC;)
8)COLLINS FINANCIAL SERVICES, INC.;)
9)NCO PORTFOLIO MANAGEMENT)
CAPITAL ONE;)
10)STATE OF OKLAHOMA, ex rel)
Department of Human Services;)
Defendants.)

REPORT AND RECOMMENDATION

Now on July 9, 2014, the undersigned Magistrate Judge takes under consideration the motion of plaintiff for confirmation of the sale of real estate made by the United States Marshal for the Eastern District of Oklahoma on February 18, 2014, under a Special Execution and Order of Sale issued out of the office of the Clerk of the United States District Court for the Eastern District of Oklahoma directing the sale of the following described real estate and premises situated and being in McCurtain County, Oklahoma, to-wit:

All that part of the S2 of the SE4 of the SW4 of Section 29, Township 8 South, Range 25 East of the Indian Base and Meridian, in McCurtain County, described as follows:

Begin at the NE corner of the S2 of the SE4 of the SW4 of Section 29, Township 8 South, Range 25 East; thence West 1320 feet; thence South 660 feet; thence East 1110 feet; thence North 630 feet; thence East 210 feet; thence North 30 feet to the point of beginning, containing 17 acres, more or less, as the case may be.

The undersigned Magistrate Judge has examined the proceedings of the United States Marshal under the Special Execution and Order of Sale, as well as the objections filed by Mr. Charles Duckett regarding two tracts of land [Docket No. 150]. Additionally, the undersigned Magistrate held a hearing on the Motion to Confirm the sale, and Mr. Duckett provided additional testimony regarding his objections. The undersigned Magistrate Judge now finds that the defenses set forth by Mr. Duckett could have and should have been raised prior to the Amended Journal Entry of Judgment [Docket No. 102] entered on May 16, 2012, and therefore should not be entertained absent an appropriate Motion to set aside the default judgment. Additionally, the undersigned Magistrate Judge finds that due and legal notice of the sale was given by publication once a week for at least four weeks prior to the date of sale in the McCurtain Gazette, a newspaper published and of general circulation in McCurtain County, Oklahoma, as appears more fully from the proof of publication filed herein, and that on February 18, 2014, the property was sold to L&M Cattle Company, for the sum of \$8,300.00, being the highest and best bidder. The undersigned Magistrate Judge further finds that the sale was in all respects in conformity with the law and judgment of this Court.

IT IS THEREFORE RECOMMENDED that the United States Marshal's Sale and all proceedings under the Order of Sale are hereby approved and confirmed and that the United States Marshal for the Eastern District of Oklahoma make and execute to the purchaser, L&M Cattle Company, a good and sufficient deed for the property.

IT IS FURTHER RECOMMENDED that after the execution and delivery of the Deed to the purchaser by the United States Marshal, the purchaser is hereby granted possession of the property against any or all persons now in possession.

IT IS FURTHER RECOMMENDED that the proceeds of the sale conducted herein be disbursed by the United States Marshal for the Eastern District of Oklahoma as follows:

FIRST: The sum of \$ 8,300.00
Payable to US Department of Justice
in partial satisfaction of
plaintiff's judgment of \$279,306.12
which includes:

Unpaid principal of \$274,920.10
Interest to judgment & sale \$ 4,386.77

FOURTH: The residue, if any, to be paid to
the Clerk of this court to abide
the further order of the court.

IT IS SO ORDERED this 9th day of July, 2014.



Steven P. Shreder
United States Magistrate Judge
Eastern District of Oklahoma